



[ 6450-01-P]

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**Nationwide Categorical Waivers under the American Recovery and Reinvestment Act of 2009 (Recovery Act)**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy (DOE).

**ACTION:** Notice of Amended Limited Waivers

**SUMMARY:** The U.S. Department of Energy (DOE) is hereby granting an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) in EERE-funded projects limiting the waiver issued February 11, 2010 to plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming.

**DATES:** Effective Date: 01/31/2013

**FOR FURTHER INFORMATION CONTACT:** Christine Platt-Patrick, Office of Energy Efficiency and Renewable Energy (EERE), (202) 586-7691, Department of Energy, 1000 Independence Avenue SW., Mailstop EE-2K, Washington, DC 20585.

**SUPPLEMENTARY INFORMATION:** Under the authority of Recovery Act, Pub. L. 111-5, section 1605(b)(2), the head of a Federal department or agency may issue a “determination of inapplicability” (a waiver of the Buy American provision) if the iron, steel, or relevant manufactured good is not produced or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality (“nonavailability”). The authority of the Secretary of Energy to make all inapplicability determinations was re-delegated to the Assistant Secretary for Energy Efficiency and Renewable Energy (EERE), for EERE projects under the Recovery Act, in Redelegation Order No. 00-002.01F, dated October 31, 2012.

On February 11, 2010, The Assistant Secretary issued a nonavailability waiver for fluorescent electronic ballasts.

As with all waivers, the Assistant Secretary reserved the right to revisit and amend this determination based on any changes in the manufacturing landscape, such as the entry into the market of new domestic manufacturers. In this case, domestic manufacturers have retooled manufacturing lines and increased manufacturing capacity to the United States, reducing costs associated with producing dimmable fluorescent electronic ballasts and complete dimming systems including controls, decreasing the price and broadening the scope of domestically manufactured systems available for purchase.

The remaining items covered by the February 2010 Waiver (Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming) continue to be covered by the February 11, 2010 waiver and remain subject to the specifications and conditions of that waiver.

In order for the withdrawn waivers to continue to apply substantial steps to commit funds for the purchase of the formerly waived items must have been made on or before March 31, 2013.

Substantial steps to commit funds would include, but are not limited to, (1) issuing a Request for Proposals (RFP) on or before March 31, 2013 (applicable only where the grantee accepts a proposal received under that RFP); (2) in the case of a sole source selection: placing an order for the goods on or before March 31, 2013; (3) commencing a bidding process on or before March 31, 2013; (4) in circumstances where the grantee solicited quotes without an RFP: the grantee purchases the goods based on a quote dated on or before March 31, 2013 and the order for the goods is placed on or before March 31, 2013; or (5) grantee has executed a contract or purchase agreement with a supplier to acquire affected goods on or before March 31, 2013.

EERE hereby provides notice that on January 31, 2013, an Amended Waiver of section 1605 of the American Reinvestment and Recovery Act of 2009 (Recovery Act Buy American provisions) was issued for EERE-funded projects utilizing dimmable florescent electronic ballasts.

This amendment modifies the nonavailability waiver issued on February 11, 2010 for florescent electronic ballasts. As a result of the amendment, the following items listed in the February 2010 waiver items remain waived: Plug in CFLs of 10 inches or less and fluorescent electronic ballasts not capable of dimming. This notice constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

This waiver determination is pursuant to the delegation of authority by the Secretary of Energy to the Assistant Secretary for Energy Efficiency and Renewable Energy with respect to expenditures within the purview of his responsibility. Consequently, this waiver applies to all EERE projects carried out under the Recovery Act.

Authority: Pub. L. 111–5, section 1605.

Issued in Washington, DC on February 1, 2013.

David T. Danielson  
Assistant Secretary  
Energy Efficiency and Renewable Energy  
U.S. Department of Energy

Editorial Note: This document was received at the Office of the Federal Register August 7, 2013.

[FR Doc. 2013-19488 Filed 08/09/2013 at 8:45 am; Publication Date: 08/12/2013]